

IN THE COURT OF APPEALS OF IOWA

No. 0-264 / 10-0148
Filed May 12, 2010

**IN THE INTEREST OF A.E. and D.E.,
Minor Children,**

**N.L.E., Mother,
Appellant.**

Appeal from the Iowa District Court for Lee (North) County, Emily S. Dean,
District Associate Judge.

A mother appeals the termination of her parental rights to her children.

AFFIRMED.

Robert Reding of Hoyer, Reding & Santiago, P.L.C., Fort Madison, for
appellant.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Michael Short, County Attorney, and Clinton R. Boddicker,
Assistant County Attorney, for appellee.

David Sallen, Fort Madison, for father.

Gordon Liles, Fort Madison, attorney and guardian ad litem for minor
children.

Considered by Sackett, C.J., and Eisenhauer and Mansfield, JJ.

EISENHAUER, J.

A mother appeals the termination of her parental rights to her children. She contends the State failed to prove the grounds for termination by clear and convincing evidence. She also contends the State failed to make reasonable efforts to reunite her with her children. We review her claims de novo. *See In re N.E.*, 752 N.W.2d 1, 6 (Iowa 2008).

The children, born in February 2005 and December 2007, were adjudicated in need of assistance (CINA) in January 2008 after two founded child abuse reports. The reports were based on concerns about the adequacy and stability of the living arrangements. The children remained in the mother's custody until August 2008, when they were placed in foster care following another child abuse report regarding safety issues in the home. The children were returned to the mother's care briefly in October 2008, but were returned to foster care after approximately two weeks. The mother asked for the children to be removed because she could not care for them. Problems in the home included safety and cleanliness. The mother said she needed to enter a psychiatric unit. The children have been in the same foster home since November 2008.

A petition to terminate parental rights was filed in October 2009. Following a hearing in December 2009, the juvenile court entered its order terminating the mother's parental right pursuant to Iowa Code sections 232.116(1)(f) and (h) (2009). The mother appeals.

For termination under section 232.116(1)(f) or (h), the State must prove the child is of a certain age, has been adjudicated in need of assistance, and has been removed from the parent's custody for a requisite period of time. There is no dispute these elements have been proved for A.E. with regard to section 232.116(1)(f) and for D.E. with regard to section 232.116(1)(h). In order to terminate, both sections also require "clear and convincing evidence that at the present time the child cannot be returned to the custody of the child's parents as provided in section 232.102." The mother argues the State failed to meet its burden on this element.

The juvenile court found the children were at risk of the following if returned to the mother's custody: (1) lack of supervision, (2) neglect, (3) lack of consistent, independent, and suitable housing, and (4) lack of adequate medical treatment. On appeal, the mother asserts she has made great strides by moving to Springfield, Illinois, where she has the support of an extended family, has obtained employment, and is earning a GED. Given the mother's history of instability in employment and housing, *see In re T.B.*, 604 N.W.2d 660, 662 (Iowa 2000) (holding the future can be gleaned from a parent's past performance), ongoing safety concerns regarding the mother's parenting abilities, and the mother's failure to address her mental health issues, we conclude clear and convincing evidence shows the children cannot be safely returned to the mother's custody. Because the grounds for termination have been proved, we affirm.

The mother also contends the State failed to make reasonable efforts to reunite her with the children as required by Iowa Code section 232.102(7). She does not indicate she made any request for additional services during the course of the CINA proceedings and our review of the record reveals none. Accordingly, this issue is not preserved for our review. See *In re L.M.W.*, 518 N.W.2d 804, 807 (Iowa Ct. App. 1994) (“A challenge to the sufficiency of services should be raised in the course of the child in need of assistance proceedings.”).

We affirm the termination of the mother’s parental rights to her children.

AFFIRMED.